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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,012	04/05/2001	Kenichi Chujo	0303-0444P	3847
2292	7590	12/08/2003	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			CHANG, VICTOR S	
			ART UNIT	PAPER NUMBER

1771

DATE MAILED: 12/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/826,012	CHUJO ET AL.	
	Examiner	Art Unit	
	Victor S Chang	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 5-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

1. The Examiner has carefully considered Applicant's amendments and remarks filed on 10/16/2003. Applicant's amendments to claim 1 and newly added claims 5-14 have been entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Rejections not maintained are withdrawn.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 1, 2 and 5-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is noted that claims 1 and 9 are identical duplicates except for the readings of "different from" and "less than" near the end of each claim. The Examiner suggests that the claims should be consolidated.

Additionally, the phrase "different from" and "less than" are unduly vague, indefinite and confusing. In particular, in the absence of what is the scope of the thickness of the region in which the average diameter of the cells are measured, the claimed thickness of each region appears to be rather arbitrary. For example, in the

absence a clearly recited thickness of a region, the thickness of the region can be arbitrarily defined by any selected "average diameter of the cells existing in a region", which can be an infinite combination of localized regions with thicknesses being either "different from", "less than", or even "greater than" each other at microscopic level. Clarification is requested.

Response to Amendment

6. Claims 1, 2 and 5-14 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over EP 0331447, substantially for the reasons set forth in section 4 of Paper No. 9, together with the following additional observations.

With respect to Applicant's response arguing that "EP '447 merely discloses two portions of the resin foam of equal thickness" (Remarks, page 8, second full paragraph), the Examiner notes that while all the citations have been checked, the alleged disclosure of "two portions ... of equal thickness" are nowhere to be found. Clarification is requested. Additionally, even if such a limitation is found, the Examiner notes that the recitations in claims 1 and 9 are unduly vague, indefinite and confusing, as set forth above, and EP '447 still appears to be able to read on the aforementioned recitations with arbitrarily selected "average diameter of the cells existing in a region", and hence the arbitrarily defined thickness of a region; as such, for claims 1, 2, and newly added claims 5, 6, and 9-12, the prior rejection over EP '447 is still deemed to be proper.

For newly added claims 7 and 13, EP '447 teaches in Table 3 that the average cell size of surface layer portion is in the range of 120-198 μm , which reads on the instantly claimed average cell size in the region in the intermediate layer on the side of surface layer. Although EP '447 lacks an express teaching of the average cell size in the region in the intermediate on the base layer side, it is noted that EP '447 teaches essentially the same scope of the compression molding process as the instantly claimed invention, as such suitable larger average cell size is believed to be either inherently disclosed, or an obvious optimization to one of ordinary skill in the art for vacuum forming, motivated by the desire to form a suitable interior molding for a vehicle.

For newly added claims 8 and 14, it is noted that EP '447 lacks an express teaching that the molded resin laminate comprises elongated cells in the vicinity of a molded bent portion. However, since EP '447 teaches essentially the same scope of the compression molding process as the instantly claimed invention, it is believed that the cells in the vicinity of a molded bent portion are inherently elongated. Note also as evidence of the state of the art Koelsch (US 3889032) which is directed to compression molding of a foamed polymeric sheet (Abstract), and Koelsch discloses that at sharp acute angles, the closed and separated cells are elongated (column 8, lines 26-29).

7. Claims 1, 2 and 5-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0331447 in view of admitted prior art, substantially for the reasons set forth in section 5 of Paper No. 9, together with the additional observations, as set forth above.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S Chang whose telephone number is 703-605-4296. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H Morris can be reached on 703-308-2414. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

VSC

DANIEL ZIRKER
PRIMARY EXAMINER
GROUP 1800
1700

Daniel Zinker